

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**JOSEPH FORSYTHE,**

**Plaintiff,**

**v.**

**PA DEPARTMENT OF  
CORRECTIONS, et al,**

**Defendants.**

**Case No. 1:20-CV-201**

**MEMORANDUM ORDER**

This action was received by the Clerk of Court on July 16, 2020. The matter was referred to United States Magistrate Judge Richard A. Lanzillo, for report and recommendation in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges.

Plaintiff complained that the Native American Harvest Feast menu provided by the Department of Corrections violated his constitutional rights under the First and Fourteenth Amendments.

On July 20, 2022, Magistrate Judge Lanzillo issued a Report and Recommendation recommending that Defendants' motion to dismiss due to Plaintiff's failure to prosecute be granted. ECF No. 36. Judge Lanzillo found that Plaintiff had not taken any meaningful action in this case since October of 2020.

Plaintiff was given the opportunity to file Objections to the Report and Recommendation. As of today's date, none have been filed.

“If a party objects timely to a magistrate judge's report and recommendation, the district court must ‘make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.’” *EEOC v. City of Long Branch*, 866 F.3d 93, 99 (3d Cir. 2017) *quoting* 28 U.S.C. § 636(b)(1). Regardless of whether timely objections are made, district courts may accept, reject, or modify—in whole or in part—the magistrate judge’s findings or recommendations. 28 U.S.C. § 636(b)(1); Local Rule 72(D)(2).

After *de novo* review of the complaint and documents in the case, together with the report and recommendation thereto, the following order is entered:

AND NOW, this 9th day of August 2022;

IT IS ORDERED that the motion to dismiss for lack of prosecution [ECF No. 33] is granted.

IT IS FURTHER ORDERED that the report and recommendation of Magistrate Judge Lanzillo, issued on July 20, 2022 [ECF No. 36] is adopted as the opinion of the court.

/s/ Susan Paradise Baxter  
SUSAN PARADISE BAXTER  
United States District Judge